

110TH CONGRESS
2D SESSION

S. 3284

To amend the Internal Revenue Code of 1986 to permanently extend the estate tax as in effect in 2009, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 17, 2008

Mr. CARPER (for himself, Mr. VOINOVICH, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to permanently extend the estate tax as in effect in 2009, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PERMANENT EXTENSION OF ESTATE TAX AS IN**
4 **EFFECT IN 2009.**

5 (a) EXCLUSION EQUIVALENT OF UNIFIED CREDIT
6 EQUAL TO \$3,500,000.—Subsection (c) of section 2010
7 of the Internal Revenue Code of 1986 (relating to unified
8 credit against estate tax) is amended to read as follows:

9 “(c) APPLICABLE CREDIT AMOUNT.—

1 “(1) IN GENERAL.—For purposes of this sec-
 2 tion, the applicable credit amount is the amount of
 3 the tentative tax which would be determined under
 4 section 2001(c) if the amount with respect to which
 5 such tentative tax is to be computed were equal to
 6 the applicable exclusion amount.

7 “(2) APPLICABLE EXCLUSION AMOUNT.—

8 “(A) IN GENERAL.—For purposes of this
 9 subsection, the applicable exclusion amount is
 10 \$3,500,000.

11 “(B) INFLATION ADJUSTMENT.—In the
 12 case of any decedent dying in a calendar year
 13 after 2010, the dollar amount in subparagraph
 14 (A) shall be increased by an amount equal to—

15 “(i) such dollar amount, multiplied by

16 “(ii) the cost-of-living adjustment de-
 17 termined under section 1(f)(3) for such
 18 calendar year by substituting ‘calendar
 19 year 2009’ for ‘calendar year 1992’ in sub-
 20 paragraph (B) thereof.

21 If any amount as adjusted under the preceding
 22 sentence is not a multiple of \$10,000, such
 23 amount shall be rounded to the nearest multiple
 24 of \$10,000.”.

1 (b) MAXIMUM ESTATE TAX RATE EQUAL TO 45 PER-
2 CENT.—

3 (1) IN GENERAL.—Subsection (c) of section
4 2001 of the Internal Revenue Code of 1986 (relating
5 to imposition and rate of tax) is amended—

6 (A) by striking “but not over \$2,000,000”
7 in the table contained in paragraph (1),

8 (B) by striking the last 2 items in such
9 table,

10 (C) by striking “(1) IN GENERAL.—”, and

11 (D) by striking paragraph (2).

12 (2) CONFORMING AMENDMENT.—Paragraphs
13 (1) and (2) of section 2102(b) of such Code are
14 amended to read as follows:

15 “(1) IN GENERAL.—A credit in an amount that
16 would be determined under section 2010 as the ap-
17 plicable credit amount if the applicable exclusion
18 amount were \$60,000 shall be allowed against the
19 tax imposed by section 2101.

20 “(2) RESIDENTS OF POSSESSIONS OF THE
21 UNITED STATES.—In the case of a decedent who is
22 considered to be a ‘nonresident not a citizen of the
23 United States’ under section 2209, the credit al-
24 lowed under this subsection shall not be less than
25 the proportion of the amount that would be deter-

1 mined under section 2010 as the applicable credit
 2 amount if the applicable exclusion amount were
 3 \$175,000 which the value of that part of the dece-
 4 dent’s gross estate which at the time of the dece-
 5 dent’s death is situated in the United States bears
 6 to the value of the decedent’s entire gross estate,
 7 wherever situated.”.

8 (c) MODIFICATIONS OF ESTATE AND GIFT TAXES TO
 9 REFLECT DIFFERENCES IN UNIFIED CREDIT RESULTING
 10 FROM DIFFERENT TAX RATES.—

11 (1) ESTATE TAX.—

12 (A) IN GENERAL.—Section 2001(b)(2) of
 13 the Internal Revenue Code of 1986 (relating to
 14 computation of tax) is amended by striking “if
 15 the provisions of subsection (c) (as in effect at
 16 the decedent’s death)” and inserting “if the
 17 modifications described in subsection (g)”.

18 (B) MODIFICATIONS.—Section 2001 of
 19 such Code is amended by adding at the end the
 20 following new subsection:

21 “(g) MODIFICATIONS TO GIFT TAX PAYABLE TO RE-
 22 FLECT DIFFERENT TAX RATES.—For purposes of apply-
 23 ing subsection (b)(2) with respect to 1 or more gifts, the
 24 rates of tax under subsection (c) in effect at the decedent’s

1 death shall, in lieu of the rates of tax in effect at the time
2 of such gifts, be used both to compute—

3 “(1) the tax imposed by chapter 12 with respect
4 to such gifts, and

5 “(2) the credit allowed against such tax under
6 section 2505, including in computing—

7 “(A) the applicable credit amount under
8 section 2505(a)(1), and

9 “(B) the sum of the amounts allowed as a
10 credit for all preceding periods under section
11 2505(a)(2).

12 For purposes of paragraph (2)(A), the applicable
13 credit amount for any calendar year before 1998 is
14 the amount which would be determined under sec-
15 tion 2010(c) if the applicable exclusion amount were
16 the dollar amount under section 6018(a)(1) for such
17 year.”.

18 (2) GIFT TAX.—Section 2505(a) of such Code
19 (relating to unified credit against gift tax) is amend-
20 ed by adding at the end the following new flush sen-
21 tence:

22 “For purposes of applying paragraph (2) for any calendar
23 year, the rates of tax in effect under section 2502(a)(2)
24 for such calendar year shall, in lieu of the rates of tax
25 in effect for preceding calendar periods, be used in deter-

1 mining the amounts allowable as a credit under this sec-
 2 tion for all preceding calendar periods.”.

3 (d) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to estates of decedents dying, gen-
 5 eration-skipping transfers, and gifts made, after Decem-
 6 ber 31, 2009.

7 (e) ADDITIONAL MODIFICATIONS TO ESTATE TAX.—

8 (1) IN GENERAL.—Subtitles A and E of title V
 9 of the Economic Growth and Tax Relief Reconcili-
 10 ation Act of 2001, and the amendments made by
 11 such subtitles, are hereby repealed; and the Internal
 12 Revenue Code of 1986 shall be applied as if such
 13 subtitles, and amendments, had never been enacted.

14 (2) SUNSET NOT TO APPLY.—

15 (A) Subsection (a) of section 901 of the
 16 Economic Growth and Tax Relief Reconciliation
 17 Act of 2001 is amended by striking “this Act”
 18 and all that follows and inserting “this Act
 19 (other than title V) shall not apply to taxable,
 20 plan, or limitation years beginning after Decem-
 21 ber 31, 2010.”.

22 (B) Subsection (b) of such section 901 is
 23 amended by striking “, estates, gifts, and trans-
 24 fers”.

25 (3) REPEAL OF DEADWOOD.—

1 (A) Sections 2011, 2057, and 2604 of the
2 Internal Revenue Code of 1986 are hereby re-
3 pealed.

4 (B) The table of sections for part II of
5 subchapter A of chapter 11 of such Code is
6 amended by striking the item relating to section
7 2011.

8 (C) The table of sections for part IV of
9 subchapter A of chapter 11 of such Code is
10 amended by striking the item relating to section
11 2057.

12 (D) The table of sections for subchapter A
13 of chapter 13 of such Code is amended by strik-
14 ing the item relating to section 2604.

15 (f) SENSE OF THE SENATE REGARDING REVENUE
16 NEUTRALITY.—It is the sense of the Senate that any re-
17 duction in Federal revenues resulting from the provisions
18 of, and amendments made by, this section should be fully
19 offset.

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